IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 383 OF 2006

MR. SANTANA FERNANDES, VASCO DA GAMA, GOA. ... Applicant

Versus

MR. PRAVIN RAMCHANDRA DESSAI AND ANR., ... Respondents

Applicant in person.

Coram:- N. A. BRITTO, J.

Date:- 26th April, 2007

P.C.:-

Heard the applicant/complainant in person. The respondent no.1 has chosen not to contest.

The impugned Order against which special leave to appeal is sought was passed on 30-6-2006. The applicant who is a practicing Advocate filed the application seeking special leave on 9-10-2006 but since objection was taken, it was not filed within the time prescribed, the applicant was notified and consequently the applicant filed the present application for condonation of delay in filing the said application for special leave, accompanied by his own affidavit stating that he had filed the application for special leave within 90 days honestly believing and that the period for filing special leave to appeal was 90 days. It was expected of the applicant as an Advocate after having obtained a copy of the Judgment on 10-7-2006 to have verified what was the time for filing an application for special leave. Having realized the situation that he was not diligent in ascertaining the time during which the application could be filed, the applicant filed additional affidavit on 15-3-2007 stating that during the intervening period from 14-9-2006 to 18-9-2006 when the 60 days time period had expired, he was sick and was under doctor's

treatment and who had advised him rest. The applicant has also filed a certificate from a Medical Officer. If the ground of sickness was genuine, the applicant would have pleaded the same in his affidavit dated 17-11-2006. Only after the applicant realized that his mistake was not bona fide and could not be accepted to explain the delay, that the applicant has pleaded on 15-3-2007 the ground of sickness which has got to be considered as an afterthought.

The application therefore is hereby rejected.

N. A. BRITTO, J.

RD.